

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

1

The Minutes

June 18, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Davis, Associate Justice; Morrison, Associate Justice; and Castillo, Bailiff. Calendar Called.

C034713 FORTY-NINER SIERRA RESOURCES, INC., etc., et al. v. CALIFORNIA STATE AUTOMOBILE ASSOCIATION, etc., et al.

Cause called. Richard E. Wilmshurst argued himself in pro per as appellant.

Jeffrey Heiser argued for appellant Forty-Niner Sierra Resources, Inc. Robert C. Phelps argued for respondents. Cause submitted.

At 10:30 a.m., the court recessed. At 10:34 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Raye and Associate Justice Hull.

C030492 THE PEOPLE v. COOK et al.

Cause called. Kyle Gee, court appointed counsel, argued for appellant Cook. Marcia Levine, court appointed counsel, argued for appellant Gains.

Mark Christiansen, court appointed counsel, argued for appellant Lozo. Maureen A. Daly, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:36 a.m., the court recessed. At 11:40 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Hull.

C030469 THE PEOPLE v. MORGAN

Cause called. S. Lynne Klein, court appointed counsel, argued for appellant. Virna DePaul-Meyers, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:07 p.m., the court recessed. At 12:07 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Hull.

C035287 THE PEOPLE v. DENTON

Cause called. Sharon L. Rhodes, court appointed counsel, argued for appellant. John A. O'Sullivan, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:32 p.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison and Associate Justice Callahan.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

2

The Minutes

June 18, 2001, continued

C032079 THE PEOPLE v. SMITH, et al.

Cause called. Richard L. Schwartzberg, court appointed counsel, argued for appellant Smith. Anthony J. Dain, court appointed counsel, argued for appellant Giles. Scott Concklin, court appointed counsel, argued for appellant Conley. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:50 p.m., the court recessed. At 2:54 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Hull.

C035216 THE PEOPLE v. OLIVER

Cause called. Peter Kmeto argued for appellant. Troy L. Nunley, Deputy Attorney General, argued for respondent. Cause submitted.

C034895 VEGA et al. v. MALLORY, as Director, etc., et al.

Caused called. Anthony J. Palik argued for appellants. Marc N. Melnick, Deputy Attorney General, argued for respondents. Cause submitted.

C034348 THE PEOPLE v. OWENS

Cause called. Janice M. Lagerlof, court appointed counsel, argued for appellant. John A. O'Sullivan, Deputy Attorney General, argued for respondent. Cause submitted.

At 4:10 p.m., the court recessed until 9:30 a.m., Tuesday, June 19, 2001.

C035982 THE PEOPLE v. GALVAN

(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Callahan, J.

June 19, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Raye, Acting Presiding Justice; Morrison, Associate Justice; Hull, Associate Justice; and Rios, Bailiff. Calendar Called.

C035594 CHICHESTER v. CHICHESTER

Cause called. Timothy W. Pemberton argued for appellant. Michael J. McLaughlin argued for respondent. Cause submitted.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

The Minutes

At 9:50 a.m., the court recessed. At 9:54 a.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Raye and Associate Justice Morrison.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

5

The Minutes

June 19, 2001, continued

- C035535 THE PEOPLE v. RICH (Not for Publication)**
The judgment is reversed and the matter remanded to the superior court for a determination whether facts exist removing each count from the applicable limitation period. If such facts exist, the superior court shall reinstate the convictions and resentence defendant. If any count is not so removed, and defendant does not waive the limitation period, the People, having been deprived of the benefit of the plea bargain, must be afforded the opportunity to have the bargain set aside and to proceed on any timely charges, including those previously dismissed.
RAYE, J.
We concur: Scotland, P.J.
 Callahan, J.
- C037228 THE PEOPLE v. CONCHAS (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Sims, Acting P.J.
 Hull, J.
- C037263 THE PEOPLE v. NASH (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Sims, Acting P.J.
 Hull, J.
- C037378 THE PEOPLE v. FRY (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
 Callahan, J.
- C036828 In re WILLIAM J.; THE PEOPLE v. WILLIAM J. (Not for Publication)**
The judgment (order committing the minor to CYA) is affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

6

The Minutes

June 20, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Davis, Associate Justice; Raye, Associate Justice; and Conrad, Bailiff. Calendar Called.

C035956 BAKER v. BAKER (RILES)

Cause called. Trilla E. Bahrke argued for appellant. Harrison L. Goodwin argued for respondent. Cause submitted.

At 9:53 a.m., the court recessed. At 9:56 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Kolkey.

C034971 PYLE v. STATE BAR OF CALIFORNIA et al.

Cause called. John Collier Pyle argued for himself in pro per as appellant. Colin Patrick Wong, State Bar of California, argued for respondents. Cause submitted.

At 10:22 a.m., the court recessed. At 10:24 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Kolkey.

C029416 THE PEOPLE v. FENNELL

Cause called. A.M. Weisman, court appointed counsel, argued for appellant and submitted additional citations. Doris A. Calandra, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:15 a.m., the court recessed. At 11:20 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson and Associate Justice Kolkey.

C035569 LOPEZ et al. v. JARRETT et al.

Cause called. S. Alexandria Jo argued for appellants. Kevin R. Culhane argued for respondents Hardy, Erich, Brown & Wilson et al. David S. Worthington argued for respondents Jarrett et al. Cause submitted.

At 12:23 p.m., the court recessed. At 12:29 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Morrison and Associate Justice Kolkey.

C032271 THE PEOPLE v. WILSON

Cause called. Paul M. Bernstein, court appointed counsel, argued for appellant and submitted additional citations. Julia L. Bancroft, Deputy Attorney General, argued for respondent. Cause submitted.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

7

The Minutes

June 20, 2001, continued

At 1:00 p.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Morrison and Associate Justice Callahan.

C032993 THE PEOPLE v. WARD

Cause called. Madeline McDowell, Central California Appellate Program, argued for appellant. Jean M. Marinovich, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:21 p.m., the court recessed. At 2:24 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Nicholson and Associate Justice Morrison.

C035732 THE PEOPLE v. BURGESS

Cause called. Philip M. Brooks, court appointed counsel, argued for appellant. W. Scott Thorpe, Supervising Deputy Attorney General, argued for respondent. Cause submitted.

At 3:00 p.m., the court recessed. At 3:05 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Sims and Associate Justice Nicholson.

C036154 DUDLEY v. DEPARTMENT OF TRANSPORTATION

Cause called. Jonathan Regent Tyrell argued for appellant. Vavtej Singh Bassi, Department of Transportation, argued for respondent. Cause submitted.

At 3:33 p.m., the court recessed. At 3:37 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Kolkey.

C035682 KESSEL et al. v. CITY OF REDDING et al.

Cause called. T. James Fisher argued for appellants and submitted additional citations. Gary Brickwood argued for respondents. Cause submitted.

At 4:09 p.m., the court recessed. At 4:10 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Raye.

C033328 LOCKLIN v. LOCKLIN and LOCKLIN et al.

Cause called. Russell J. Hanlon argued for appellants. Melissa A. Atteberry argued for respondents and submitted additional citations. Robert A. Glusman appeared only. Cause submitted.

At 4:40 p.m., the court recessed until 9:30 a.m., Friday,

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

8

The Minutes

June 22, 2001.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

9

The Minutes

June 20, 2001, continued

- C030761 THE PEOPLE v. RENDELMAN (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accordance with part IV of this opinion, and to forward a certified copy of the amended abstract to the Department of Corrections.
SCOTLAND, P.J.
We concur: Nicholson, J.
Hull, J.
- C034523 THE PEOPLE v. BLUFORD (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment describing the crime as the sale of cocaine base and including the penalty assessments of \$150 and \$105 imposed on the drug program fee and to forward a certified copy to the Department of Corrections. The judgment is affirmed.
SIMS, J.
We concur: Scotland, P.J.
Nicholson, J.
- C034935 THE PEOPLE v. SCHULMAN (Not for Publication)**
C035438 THE PEOPLE v. SCHULMAN et al.
The judgments are affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
Nicholson, J.
- C036033 THE PEOPLE v. BYRD (Certified for Partial Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We concur: Nicholson, J.
Hull, J.

June 21, 2001

- C035059 THE PEOPLE v. THOMAS (Not for Publication)**
The sentence is vacated. The strike prior finding and the section 667, subdivision (a) finding for the 1983 second degree burglary allegations are reversed. The matter is remanded for a new trial on these allegations only and for resentencing. In all other respects, the judgment is affirmed.
SIMS, J.
We concur: Scotland, P.J.
Morrison, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

11

The Minutes

June 22, 2001, continued

At 10:00 a.m., the court recessed. At 10:04 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Nicholson and Associate Justice Morrison.

C033685 FRIENDS OF PLACER COUNTY COMMUNITIES et al. v. COUNTY OF PLACER and AUBURN-49 ASSOCIATES

Cause called. Valerie D. Flood appeared for appellant, however argument was not requested. Jeffrey F. Bordelon argued for real party in interest. William D. Kopper argued for respondents. Cause submitted.

At 10:13 a.m., the court recessed. At 10:15 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Callahan.

C036177 BARRAGAN v. PUMICE

Cause called. Timothy V. Magill argued for appellant and submitted additional citations. Lawrence O. De Coster argued for respondent. Cause submitted.

At 10:35 a.m., the court recessed. At 2:00 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Morrison and Associate Justice Callahan.

C037025 CATHOLIC CHARITIES OF SACRAMENTO, INC. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and DEPARTMENT OF MANAGED HEALTH CARE et al.

Cause called. James Francis Sweeney argued for petitioner. Lawrence R. Jannuzzi appeared only. Paul E. Gaspari appeared only. Daniel G. Stone, Deputy Attorney General, argued for real parties in interest. Cause submitted.

At 3:00 p.m., the court recessed until 9:30 a.m., Monday, June 25, 2001.

C033203 THE PEOPLE v. CERNIGLIA (Not for Publication)

The judgment (order) is reversed, and the matter is remanded to the superior court with directions to allow Cerniglia the opportunity to withdraw the stipulation and, if he does so, for further proceedings consistent with this opinion. Should he fail to withdraw from the stipulation, the trial court shall reinstate the judgment (order). Cerniglia shall remain in custody in a secure facility pending further proceedings in the trial court.

HULL, J.

We concur: Scotland, P.J.
 Callahan, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

12

The Minutes

June 22, 2001, continued

- C033243 THE PEOPLE v. HINOJOSA (Not for Publication)**
The judgment is modified to impose a criminal laboratory analysis fee of \$50 (§ 11372.5), plus \$85 in state and county penalty assessments (Pen. Code, § 1464; Gov. Code, § 76000). As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment and forward a certified copy thereof to the Department of Corrections.
KOLKEY, J.
I concur: Hull, J.
I concur in the judgment and opinion, except as to part II.D. of the Discussion, as to which I concur in the result.
BLEASE, Acting P.J.
- C034349 THE PEOPLE v. GARZA (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Nicholson, J.
Raye, J.
- C035419 THE PEOPLE v. MARINO (Not for Publication)**
The judgment is modified to reflect that the two sentences for the convictions for violation of Vehicle Code section 10851 in case No. F94-08993 are stayed pursuant to section 654. As modified, the judgment is affirmed. Additionally, the date of conviction in case No. F94-08993 is incorrectly stated on the abstract of judgment. The correct date of conviction in case No. F94-08993 is June 6, 1994. The trial court is directed to prepare an amended abstract of judgment reflecting the modification of the judgment and the correct date of conviction and to forward a certified copy of the amended abstract to the Department of Corrections.
HULL, J.
We concur: Blease, Acting P.J.
Raye, J.
- C035909 THE PEOPLE v. JOPLIN (Not for Publication)**
The judgment is affirmed. However, as explained above, we direct the trial court to correct the written document memorializing the judgment so that the document correctly reflects the judgment pronounced by the court.
HULL, J.
We concur: Davis, Acting P.J.
Callahan, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

13

The Minutes

June 22, 2001, continued

- C036266 THE PEOPLE v. PARSONS (Not for Publication)**
The trial court's order denying defendant's motion made pursuant to
People v. Superior Court (Romero), supra, 13 Cal.4th 497 is affirmed.
HULL, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C037141 THE PEOPLE v. ROJAS (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
 Callahan, J.
- C037180 THE PEOPLE v. FARIAS (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
 Callahan, J.
- C035937 In re DAMON H.; DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. DONNA H. (Not for
Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Raye, J.
 Morrison, J.